

STATE OF MICHIGAN
COURT OF APPEALS

GHAUS MALIK and SAHIB MALIK,

Plaintiffs/Counter-Defendants-
Appellants

v

SHAKEEB SALAMY and D.E.S. BUILDING
COMPANY, INC.,

Defendants/Counter-Plaintiffs.

and

DANA EMERGENCY SERVICES,

Defendant,

and

PERFECT MARBLE & GRANITE INC.,
MACOMB STAIRS INC., ELVIN
CONSTRUCTION COMPANY, and PHILIP F.
GRECO TITLE COMPANY

Defendants/Counter-Plaintiffs-
Appellees.

and

STOCK BUILDING SUPPLY, LLC,

Defendant/Counter-Plaintiff/ Cross-
Plaintiff/Third-Party Plaintiff,

and

TAYLOR DOOR,

Defendant,

UNPUBLISHED

April 26, 2007

No. 264780

Oakland Circuit Court

LC No. 2002-046022-CH

and

SAM VAGNETTI and LINDA VAGNETTI,

Third-Party Defendants.

Before: Zahra, P.J., and Bandstra and Owens, JJ.

PER CURIAM.

Plaintiffs appeal as of right the December 2, 2004 judgment for foreclosure of construction liens, attorney fees and costs entered in favor of defendants Elvin Construction Company (Elvin), Perfect Marble & Granite, Inc. (PMG) and Macomb Stairs, Inc (MSI). We reverse that portion of the trial court's judgment that awards PMG and MSI 1.5 percent interest per month on the unpaid amount of their liens. We affirm the trial court's judgment in all other respects.

Plaintiffs contracted with D.E.S. Building Company (DES), for whom Shakeeb Salamy (Salamy) was their principal contact, for the construction of a home in Bloomfield Township. DES was to serve as the general contractor and was to receive payment for all costs of construction plus a management fee of twelve percent of those costs. The contract was subject to a cap of \$1,225,000, which could only be exceeded by written agreement. The contract was signed on November 27, 2000. Elvin, PMG and MSI provided materials, supplies, and/or labor used in the construction of plaintiffs' home. Plaintiffs terminated DES from the project in November 2002, and sued DES and Salamy for breach of contract, fraud and misrepresentation. DES and Salamy counterclaimed for breach of contract and quantum meruit/unjust enrichment. Those claims were tried to a jury, which returned a verdict in favor of plaintiffs. Plaintiffs also prevailed on their claim that Greco Title Company breached a fiduciary duty to them to ensure that DES properly paid subcontractors and that waivers of lien were obtained. No part of the jury verdict is at issue in this appeal.

As part of the action below, Elvin, PMG and MSI, among others, asserted claims against DES for unpaid materials, supplies and labor. DES entered into Consent Judgments relating to those claims. Elvin, PMG and MSI also commenced equitable actions against plaintiffs to foreclose on their respective construction liens. These foreclosure claims were tried to the bench concurrently with the jury trial of the claims between plaintiffs, DES, Salamy and Greco. After the jury verdict, the trial court ruled that Elvin, PMG and MSI were entitled to liens on plaintiffs' property in the amount sought. Subsequently, the trial court entered a judgment of foreclosure on those liens and awarded Elvin, PMG and MSI attorney fees and costs. It is that judgment that plaintiffs appeal.

Plaintiffs first argue that the trial court failed make sufficient findings of fact, as required by MCR 2.517, in rendering its decision in favor of the lien claimants. We disagree.

A trial court sitting without a jury must make specific findings of fact, state its conclusions of law separately, and direct entry of the appropriate judgment. MCR 2.517(A)(1). A trial court's findings of fact are sufficient if they are "[b]rief, definite, and pertinent," if it

appears that the trial court was aware of the issues in the case and correctly applied the law, and if appellate review would not be facilitated by requiring further explanation. MCR 2.517(A)(2); *Triple E Produce Corp v Mastronardi Produce, Ltd*, 209 Mich App 165, 176-177; 530 NW2d 772 (1995). Whether the trial court's findings of fact complied with MCR 2.517(A)(1) is a question of law, which this Court reviews law de novo. *Cardinal Mooney High School v Michigan High School Athletic Ass'n*, 437 Mich 75, 80; 467 NW2d 21 (1991).

We find that, considered together, the trial court's findings of fact issued when ruling on defendants' motions for directed verdict at the close of plaintiffs' case, its comments at the conclusion of the jury trial, and its adoption of the proposed findings of fact put forth by Elvin's counsel at the motion to settle the judgment were sufficient to indicate that the trial court was aware of the issues in the case and correctly applied the law. The trial court addressed each of the issues necessary to resolving the claims before it, including the amount of the contract between plaintiffs and DES, and the amount and validity of the liens asserted by Elvin, PMG and MSI. No additional explanation is needed to facilitate this Court's review of the issues presented on appeal. Therefore, there is no need to remand for further findings by the trial court. MCR 2.517(A)(2); *Triple E*, *supra*, 209 Mich App 176-177.

Plaintiffs' real complaint is that the trial court adopted Elvin's counsel's recitation of the facts necessary to support the conclusion reached by the trial court. However, plaintiffs offer this Court no authority to invalidate a trial court's findings of fact merely because the trial court adopted findings presented by a party. "This Court will not search for authority to support a party's position, and the failure to cite authority in support of an issue results in its being deemed abandoned on appeal." *Flint City Council v Michigan*, 253 Mich App 378, 393 n 2; 655 NW2d 604 (2002). Further, our Supreme Court has recognized that there is "no impropriety, after a circuit judge has determined in his own mind how he will decide a case tried before him without a jury" in adopting findings of fact proposed by the attorney for the prevailing party. *Bateman v Blaisdell*, 83 Mich 357, 359-360; 47 NW233 (1989).

Additionally, plaintiffs complain that the trial court's findings of fact contradict the jury's verdict in their favor on their claims against DES. However, the trial court was an independent finder of fact on the lien claimants' equitable claims; it was not bound by the jury's determination. *Smith v University of Detroit*, 145 Mich App 468, 479; 378 NW2d 511 (1985). As this Court explained in *Smith*,

While this implies the startling possibility of contradictory findings in the same case on the common issue of fact, this apparently is a consequence which must be accepted if each party has a constitutional right to a different mode of trial.

Therefore, in a case such as this where both equitable issues and jury submissible issues coexist, the proper procedure is to hold trial before a jury and follow presentation of evidence with *two separate factual determinations; court factfinding on the equitable claims and jury factfinding on the claims of damages*. [*Id.* (emphasis added).]

Contrary to plaintiffs' implicit assertion, the trial court was not required to defer to the jury's findings of fact; doing so would have improperly denied Elvin, PMG and MSI their right to have the judge decide their equitable claims for foreclosure. *Id.*

Plaintiffs next argue that the trial court erred in determining that substantial compliance with the notice of furnishing requirement set forth in MCL 570.1109 was sufficient for the validity of the construction liens at issue. We disagree.

The question whether the construction lien act, MCL 570.1101 *et seq.* (the act) permits substantial compliance with the notice of furnishing requirement presents a question of statutory interpretation and application, which this Court undertakes *de novo*. *Schuster Construction Services, Inc v Painia Development Corp*, 251 Mich App 227, 232; 651 NW2d 749 (2002). The question whether a party substantially complied with the requirements of the act is a factual determination, which this Court reviews for clear error. *Glen Lake-Crystal River Watershed Riparians v Glen Lake Ass'n*, 264 Mich App 523, 531; 695 NW2d 508 (2004). “A finding of fact is clearly erroneous when, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been made.” *Bracco v Michigan Technological Univ*, 231 Mich App 578, 585; 588 NW2d 467 (1998). In reviewing the trial court’s findings, “regard shall be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it.” *Id.*

MCL 570.1109(1) requires that a subcontractor or supplier who contracts to provide an improvement to real property provide a notice of furnishing to “the designee and the general contractor, if any,” identified on the notice of commencement of construction activities within 20 days after furnishing the first labor or material. The notice of furnishing serves to notify “owners of the identity of subcontractors improving the property who may become future lien claimants.” *Vugterveen Systems, Inc v Olde Millpond Corp*, 454 Mich 119, 122; 560 NW2d 43 (1997). Although a subcontractor’s failure to timely provide a notice of furnishing may reduce the value of its lien, it does not defeat its right to a lien. *Id.* As MCL 570.1109(6) explains in relevant part:

The failure of a lien claimant to provide a notice of furnishing within the time limit specified in this section *shall not defeat* the lien claimant’s right to a construction lien for work performed or materials furnished by the lien claimant before the service of the notice of furnishing *except to the extent that payments were made by or on behalf of the owner or lessee to the contractor pursuant to either a contractor’s sworn statement or a waiver of lien* in accordance with this act for work performed or material delivered by the lien claimant. [Emphasis added.]

In *Vugterveen*, *supra* at 130-131, our Supreme Court explained that the act “is remedial in nature, and substantial compliance is sufficient to meet the requirements of part one of the act” including the notice of furnishing requirement set forth in MCL 570.1109. The Court held that where the subcontractor and the owner met and discussed the work to be performed and the property to be improved, and thus, “[t]he owner knew the identity of the subcontractor, the work that was to be performed, and the property to be improved” the subcontractor substantially complied with the act’s notice of furnishing requirement. *Id.* at 131.

Plaintiffs do not dispute the effect of the *Vugterveen* decision, but rather argue that it has been implicitly overruled by *Devillers v Auto Club Ins Ass’n*, 473 Mich 562, 564; 702 NW2d 539 (2005), in which our Supreme Court reversed prior precedent on the basis that it contravened express statutory language. Plaintiffs assert that *Vugterveen*’s allowance of substantial

compliance contravenes the express language of MCL 570.1109, which unambiguously provides that a subcontractor “shall” serve a notice of furnishing. However, § 302 of the act, upon which the *Vugterveen* Court relied, expressly provides that:

This act is declared to be a remedial statute, and shall be liberally construed to secure the beneficial results, intents, and purposes of this act. *Substantial compliance with the provisions of this act shall be sufficient for the validity of the construction liens provided for in this act*, and to give jurisdiction to the court to enforce them. [MCL570.1302(1) (emphasis added).]

Thus, the Court in *Vugterveen* did not render a decision on policy grounds in contravention of clear statutory language. Rather, the *Vugterveen* Court’s decision is in accord with the explicit language of the statute, which clearly and unambiguously states that substantial compliance with the provisions of the act is sufficient to validate the construction liens at issue. Testimony presented at trial established that plaintiffs had actual knowledge that Elvin, PMG and MSI were providing labor and/or materials at their property. This was sufficient to allow the trial court to conclude that Elvin, PMG and MSI substantially complied with the act’s notice of furnishing requirement. *Vugterveen, supra*.

Plaintiff also challenges the trial court’s inclusion of interest of 1.5 percent per month in the liens claimed by Elvin, PMG and MSI. The question whether a time-price differential is properly included in the amount of a lien is a question of statutory construction, which this Court reviews de novo. *Erb Lumber Co v Homeowner Construction Lien Recovery Fund*, 206 Mich App 716, 719; 522 NW2d 917 (1994). The question whether a contract includes a time-price differential is a question of fact, which this Court reviews for clear error. *Linsell v Applied Handling, Inc*, 266 Mich App 1, 12; 697 NW2d 913 (2005); *Glen Lake-Crystal River Watershed, supra* at 531.

In *Erb Lumber, supra* at 720-722, this Court concluded that a two percent time-price differential established in the contract for the supply of materials was properly included in the plaintiffs’ lien. The Court noted that, “[t]he supply contract provided that payment for materials must be made within 150 days of delivery. If not, a time-price differential charge of two percent per month would be added until the total was fully paid.” *Id.* at 717. There, as here, trial court concluded that this time-price differential was properly included in the construction lien claim. And there as here, the complaining party asserted on appeal that inclusion of these amounts was improper because “interest payments are not properly included in determining the amount of a lien.” *Id.* at 718-719. In affirming the trial court’s judgment, this Court explained that the act clearly “provides that the amount of the lien is to be calculated by taking the lien claimant’s contract price, less the amount already paid on it.” *Id.* at 720. Therefore, where the lien claimant’s contract establishes a different price for materials depending on when those materials are paid for – that is, a “time-price differential” for delayed payment – that time-price differential is properly included in the amount of the lien. *Id.* at 721-722.

Pursuant to this Court’s decision in *Erb Lumber*, then, Elvin, PMG and MSI were each entitled to include a time-price differential in the amount of their lien if a time-price differential for delayed payment was provided for in the contract for the provision of the goods or services underlying that lien. Elvin’s president, Fred Elvin, testified at trial that his company’s agreement with DES included a 1.5 percent time-price differential. Salamy also testified that Elvin was

entitled to that differential as part of its contract with DES. Plaintiffs do not challenge this testimony. Therefore, the trial court did not err in concluding that Elvin was entitled to include such amounts in its lien. *Erb Lumber, supra* at 722.

However, there was no evidence presented to establish that a time-price differential was part of any agreement between plaintiffs or DES and PMG, or between plaintiffs or DES and MSI, to supply materials for the construction of plaintiffs' property. Sunny Surana, PMG's president, testified that there was no agreement between the parties to pay a time-price differential before PMG supplied materials to the project, but that the time-price differential was set forth on invoices PMG submitted to DES thereafter. On appeal, PMG points to its consent judgment with DES, in which DES stipulated to entry of judgment in an amount including 1.5 percent interest per month as supporting its claim. However, under *Erb Lumber, supra*, PMG is only entitled to include the 1.5 percent differential *if* that differential was part of the contract price plaintiffs and/or DES agreed to pay for the materials purchased from PMG. PMG presented no evidence to establish that payment of a time-price differential was part of the contract for the supply of materials between PMG and plaintiffs/DES, post-agreement invoices notwithstanding.¹ Consequently, the trial court clearly erred in permitting PMG to include a time-price differential of 1.5 per cent per month in the amount of its lien.

Similarly, MSI points only to its pre-trial stipulation with DES that the balance owed on DES's contract with MSI included interest at a rate of 1.5 percent per month. Unlike PMG's invoices, MSI's invoices contain no reference to a time-price differential. Nor was there any testimony that MSI's agreement to supply goods and services to plaintiffs included such a charge. Consequently, the trial court also clearly erred in permitting MSI to include a time-price differential of 1.5 per cent per month in the amount of its lien.

Plaintiffs next argue that the trial court erred in denying their motion, brought pursuant to MCR 2.116(C)(10), to summarily dismiss the liens on the basis of the homeowner's affidavit plaintiffs submitted in accordance with § 203 of the act. We disagree.

This Court reviews a trial court's decision on a motion for summary disposition *de novo*. *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003). A motion under MCR 2.116(C)(10) tests the factual support for a claim. The court must consider the pleadings, affidavits, depositions, admissions, and other documentary evidence submitted by the parties in a light most favorable to the nonmoving party. MCR 2.116(G)(5); *Dressel, supra* at 561. Summary disposition should be granted if, and only if, except as to the amount of damages, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Babula v Robertson*, 212 Mich App 45, 48; 536 NW2d 834 (1995).

¹ We also note that Surana testified that he had not worked with DES or plaintiffs before this project. Therefore, there is no historical basis for either DES or plaintiffs to have been aware of the time-price differential set forth on PMG's invoices at the time they agreed to purchase material from PMG.

Section 203 of the act, MCL 570.1203, sets forth specific requirements that must be fulfilled (1) by a homeowner in order to avoid paying a lienholder for amounts already paid to the contractor and (2) by a lienholder in order to seek recovery from the construction lien recovery fund in lieu of payment by the homeowner. *Erb Lumber, Inc v Gidley*, 234 Mich App 387, 394; 594 NW2d 81 (1999). Pertinent to the homeowner's avoidance of liens, § 203 provides:

(1) A claim of construction lien shall not attach to a residential structure, to the extent payments have been made, if the owner or lessee files an affidavit with the court indicating that the owner or lessee has done all of the following:

(a) Paid the contractor for the improvement to the residential structure and the amount of the payment.

(b) Not colluded with any person to obtain a payment from the fund.

(c) Cooperated and will continue to cooperate with the department in the defense of the fund.

(2) . . . In the absence of a written contract . . . , the filing of an affidavit under this section shall create a rebuttable presumption that the owner or lessee has paid the contractor for the improvement. The presumption may be overcome only by a showing of clear and convincing evidence to the contrary. [MCL 570.1203.]

Plaintiffs argued that they were entitled to dismissal of the liens based on a homeowner's affidavit from plaintiff Ghaus Malik (Malik) that recited the requirements as set forth in § 203. Malik's affidavit explained that plaintiffs had paid \$1,047,000 to DES, with an understanding that extras incurred through July 2002 were "probably no more than \$30,000.00 over the original maximum set contract amount," and that they paid \$354,949.78 to other contractors, for a total amount paid of \$1,475,349.78 on a contract with a cap of \$1,225,000. Thus, plaintiffs asserted that they were entitled to dismissal of the liens pursuant to § 203.

In response, Elvin, PMG, MSI and others presented the court with an affidavit from Salamy discussing numerous verbal change orders made by plaintiffs that resulted in price increases to the contract. More specifically, in his affidavit, Salamy averred that it was his "good faith belief that DES is owed more than \$870,000 on the project," which included "various sums owed to DES subcontractors and material suppliers." Further, Salamy noted the additional work, including revision of the plans and the "significant changes in elevations and layout of the house, including driveways and site clearing and grading," requiring "[s]ignificant amounts of engineered fill," resulting from errors in the original depiction of the site. He further averred that throughout the course of construction, plaintiffs continually changed and upgraded the scope of the project and made substantial upgrades in materials. Elvin and MSI also attached portions of Malik's deposition acknowledging increases in the cost of windows selected by plaintiffs, in the amount of steel needed for the construction of the stacked garages and in the cost of the front stairway.

In addition, defendant Homeowner Construction Lien Recovery Fund (the Fund)² noted that the contract between DES and plaintiffs “clearly contemplated that the \$1,162,371 price given, was an estimated price,” in that the contract noted, “[t]hese figures are subject to change, based on actual costs as they are incurred during the construction.” The Fund also noted that the revised plans increased the size of plaintiffs’ residence from approximately 6,900 square feet to approximately 10,640 square feet and changed the configuration of the garages from two one-level garages on cement slabs to one two-level garage on steel footings. These changes resulted in substantial increases to the contract price, including for example, an increase in excavation costs from the \$20,000 set forth on the specification sheet to an amount exceeding \$112,000. The Fund also reported that DES paid out \$1,052,188.88 to subcontractors and suppliers for the project and that the costs of the contract upgrades and modifications approved by plaintiffs totaled \$705,869.52, bringing the total contract price to \$1,868,041.36. The Fund attached an affidavit from Salamy, together with a supporting spreadsheet, attesting to these figures.

The trial court denied plaintiffs’ motion, concluding that there were genuine issues of material fact as to the terms of the agreement between DES and plaintiffs and as to whether plaintiffs paid for all of the improvements to their property. We agree with the trial court that the affidavits and other documentary evidence submitted by defendants were sufficient to establish a genuine issue of material fact regarding whether plaintiffs fully paid DES for all improvements to their property. Therefore, the trial court did not err in concluding that plaintiffs were not entitled to summary dismissal of the liens under § 203 of the act.

Finally, plaintiffs argue that the trial court erred in determining the amount and timeliness of Elvin’s lien. We disagree. Fred Elvin testified that all invoices underlying the amount claimed in the amended lien were for work performed at plaintiffs’ property. While plaintiffs point to an invoice bearing the name of another project and question the propriety of sequentially numbered job tickets, the trial court was free to believe Elvin’s testimony. Plaintiffs did not question Fred Elvin at trial regarding the numbering of the job tickets or inquire about the invoice they now argue was for work Elvin performed for a different client. Thus, giving due regard to the trial court’s opportunity to judge the credibility of the witnesses that appeared before it, *Bracco, supra* at 585, this Court is not left with a firm and definite conviction that a mistake was made.³

² The Fund is not a party to this appeal.

³ We note that the invoice to which plaintiffs object, and the job tickets underlying it, all indicate that the work was performed at plaintiffs’ address. Fred Elvin testified that Elvin maintained its records according to lot number or address. Therefore, despite bearing an incorrect developer name, the invoice and underlying documentation do not support plaintiffs’ assertion that they were invoiced for work not performed at their property. We also note that Fred Elvin testified that he kept a daily job ticket book in his truck and that if he left one site to go to another, he would write one ticket for one job and the next for the other job. In such cases, job tickets would not be sequentially numbered for a single job. However, job tickets would be numbered sequentially if Fred Elvin was at the same job for a number of consecutive days. Fred Elvin also
(continued...)

We also conclude that the trial court did not err in determining that Elvin's work at the site was performed as part of a "single operation" to perform work as requested by DES for the construction of plaintiffs' property.

Section 111 of the act provides in relevant part:

Notwithstanding section 109 [relating to notices of furnishing], the right of a contractor, subcontractor, laborer, or supplier to a construction lien created by this act shall cease to exist unless, *within 90 days after the lien claimant's last furnishing of labor or material for the improvement, pursuant to the lien claimant's contract*, a claim of lien is recorded in the office of the register of deeds for each county where the real property to which the improvement was made is located. [MCL 570.1111(1) (emphasis added).]

Testimony established, and the parties do not dispute, that Elvin performed general miscellaneous work at plaintiffs' property from May 2000 or earlier through June 2002, that Elvin installed the septic field in June 2002, and that Elvin performed work on the storm drainage system dating from July 15, 2002 to November 15, 2002. Thus, Elvin was actively working at the site from at least May 2000 through November 2002. On November 21, 2002, Elvin filed a single lien for all amounts owing for work performed at plaintiffs' property. Elvin asserts that all such work was performed pursuant to a single contract with DES to undertake whatever work was needed at the site, and that written agreements setting fixed prices for septic work and storm drainage work were part of this single contract. Fred Elvin explained that Elvin's arrangement with DES was to charge hourly for labor and equipment where it was difficult to determine in advance the total scope or cost of work needed and to place in writing a fixed price for those projects, such as the septic field and the storm drainage work, that were amenable to an advance determination.

As noted above, the act specifies that a lien claimant must record a claim of lien "within 90 days after the lien claimant's last furnishing of labor or material for the improvement, pursuant to the lien claimant's contract . . ." MCL 570.1111(1). The act defines "improvement" as:

the result of labor or material provided by a contractor, subcontractor, supplier or laborer, including but not limited to, surveying, engineering and architectural planning, construction management, clearing, demolishing, excavating, filling, building, erecting, constructing, altering, repairing, ornamenting, landscaping, paving, leasing equipment, or installing or affixing a fixture or material, pursuant to a contract. [MCL 570.1104(7).]

(...continued)

testified that he preferred to keep one job ticket book for each job. That practice would also explain a series of sequentially numbered daily job tickets for a single job. Thus, we find nothing inherently sinister in the mere fact that some of Elvin's tickets were sequentially numbered in this case.

The act further defines contract as “a contract of whatever nature, for the providing of improvements to real property, including any and all additions to, deletions from and amendments to the contract.” MCL 570.1103(4). Under MCL 570.1111(1), then, Elvin was required to file its claim of lien within 90 days after it last furnished labor or material for the “improvement” of plaintiffs’ property pursuant to its contract with DES, including any additions to that contract.

The trial court determined that all of Elvin’s work was supplied to the property as part of a single contract with DES relative to the construction of plaintiffs’ home. We conclude that the trial court did not clearly err in reaching this conclusion, given testimony from both Fred Elvin and Salamy that Elvin was hired by DES to do what was needed at the site for the construction of a single improvement – plaintiffs’ home – contemplated by their agreement, and that Elvin performed a wide range of tasks throughout the duration of the project. The trial court’s conclusion that the septic field and storm drain agreements were part of this single contract is further supported by the act’s definition of “contract” as including “additions” or “amendments” thereto. Therefore, this Court is not left with a “firm conviction” that the trial court erred in concluding that Elvin and DES had a single contract for all work Elvin provided at plaintiffs’ property. Consequently, the trial court did not err in concluding that Elvin’s lien covering the entirety of Elvin’s work was timely filed.

Because we find that the trial court did not clearly err in concluding that each of the invoices underlying Elvin’s lien reflected work performed or materials supplied to plaintiffs’ property, and that all of Elvin’s work was performed pursuant to a single contract with DES, there is no basis for concluding that Elvin’s lien was filed in bad faith and should have been dismissed.

We reverse that portion of the trial court’s judgment in favor of lien claimants that awards PMG and MSI 1.5 percent interest per month on the unpaid amount of their liens. We affirm the trial court’s judgment in all other respects.

/s/ Brian K. Zahra
/s/ Richard A. Bandstra
/s/ Donald S. Owens